THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.16587 of 2004

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Dated:02.03.2006

Between:

Sri Sanjay Gupta, S/o. Ramkishan Gupta,
Plot NO. 116/A, M.L.A. Colony, Road No. 12, Banjara Hills,
Hyderabad.

..... PETITIONER

AND

Deputy Director of Enforcement, Goverenment of India,
Bangalore Zonal Office, State Bank Road (Behind India Garage),
Bangalore-560 001, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.16587 of 2004

ORDER:

The petitioner assails the order dated 06.10.2003 passed by the first respondent under the provisions of the Foreign Exchange Regulation Act, 1973 ('FERA' for short) imposing a penalty of Rs.3,00,000/- on M/s.Preyanshu Exports Limited, and its Managing Director (the petitioner herein) and further directing the petitioner to deposit the amount in the Office of Enforcement Directorate, Bangalore, by way of Demand Draft. The order is assailed, *inter alia,* on the ground that the contraventions under the repealed Act (FERA) cannot be dealt with under the Foreign Exchange Management Act, 1999 (for short 'FEMA'), especially, after expiry of a period of two years from the date of commencement of the repealed Act.

The learned Counsel also submits that the Company in liquidation and for its contravention, the Managing Director cannot be subjected to penalty. This submission is devoid of any merit. This Court, however, hastens to add that if the petitioner is able to show that he is not an Officer Incharge of the affairs of the Company under Section 5 of Companies Act, 1956, it is always open to him to take such plea before the Appellate Tribunal for Foreign Exchange. Liberty is given to the

petitioner to do so.

The Writ Petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

02.03.2006

vs